



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,115	06/02/2000	Vincent Dureau	5266-01702	6792

7590 07/30/2004

Mark L Berrier  
Conley Rose & Tayon P C  
P O Box 398  
Austin, TX 78767-0398

EXAMINER
----------

TRAN, HAI V

ART UNIT	PAPER NUMBER
----------	--------------

2611

DATE MAILED: 07/30/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/587,115

Applicant(s)

DUREAU, VINCENT

Examiner

Hai Tran

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05/06/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed on 05/06/2004 have been fully considered but they are not persuasive. Applicant's arguments are moot because the alleged limitations have been cancelled and newly added/amended limitations has been introduced into claims 1, 23, 812, 13, 18, 23, 24, 29, 30, 31 of the amendment. Thus, amended claims change the scope of the previous applied art rejection.

Claim 23, Applicant argues "Heimbürger does not disclose a toy. Rather Heimbürger merely teaches a remote control with a fanciful design. Applicant submits a remote control is not a toy, regardless of what it looks like. A toy is something for a child to play with."

In response, the Examiner respectfully disagrees with Applicant remark because Applicant seems to contradict himself regarding his own definition of a toy. The Examiner submits one of ordinary skill in the art would recognize that Heimbürger's remote control with a fanciful design is a toy.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: limitation "said receiver" lines 19 should be – said receiving station --.

Claim 12 is objected to because of the following informalities: limitation "said receiver" lines 13 should be – said receiving station --.

Claim 23 is objected to because of the following informalities: limitation "said toy" lines 9 should be – said programmable toy --.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273).

Claim 1, A receiving station (Television) configured to receive a broadcast signal (radio frequency or base-band video data) containing program data (i.e., EPG) (Col. 8, lines 41-44); and

A programmable device (remote control/RC) configured to be coupled to the received station (TV set) and to receive the program data (EPG) from the receiving station (Col. 5, lines 54-Col. 6, lines 9 and Col. 8, lines 44-52).

Wherein one of the receiving station (TV set) and the programmable device (RC) is configured to select a portion of the program data (The RC is configured to select only a portion of the received EPG data based on the availability of RAM on

the RC, see Col. 8, lines 57-60 or based on the user preferred setting stored in the RC, see Col. 10, lines 40-47); and

Wherein the programmable device (RC) is configured to store the portion of the program data (store a portion of an EPG, i.e. one day of the scheduled TV programming; Col. 8, lines 57-60).

Herz DOES not disclose "programmable device data configured for use in programming the programmable device" and "in response to detecting the program data includes the programmable device data the receiving station transmits a notification signal to the programmable device to indicate that the receiving station is ready to transmit programmable device data to the programmable device, and does not transmit programmable device data to the programmable device, in response to detecting the program data does not comprise programmable device data; Wherein in response to receiving the notification signal, the programmable device is configured to emit a user-sensible signal to indicate that the receiving station is ready to transmit the programmable device data to the programmable device." However, Herz teaches a test enable signal and IR request are sent from the TV to the remote control. The purpose of the test enable signal is to inform the remote control of incoming IR request (Herz ; Col. 7, lines 27-49 and Col. 14, lines 56-65) that reads on "Wherein said receiving station transmits a notification signal to the programmable device to indicate that the receiving station is ready to transmit programmable device data to the programmable device".

Aldava discloses programmable device data (kinetic device audio and kinetic signals) configured for use in programming the programmable device 300 (Fig. 1) and in response to detecting the program data (TV broadcast signal) includes the programmable device data (kinetic device audio and kinetic signals) the receiving station 200 transmits programmable device data to the programmable device, and does not transmit programmable device data to the programmable device in response to detecting the program data does not comprise programmable device data (Col. 4, lines 13-23 and Col. 15, lines 12-42). Aldava further discloses wherein in response to receiving the kinetic device audio and kinetic signals, the programmable device 300 is configured to emit a user-sensible signal (Col. 5, lines 29-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz with Aldava so to cause the remote receiving system to be able to emit audible sounds and kinetic movements in a synchronization manner with audiovisual programming (Col. 1, lines 10-15).

Herz in view of Aldava does not disclose the programmable device wherein in response to receiving the notification signal, the programmable device is configured to emit a user-sensible signal to indicate that the receiver (i.e., set top box) is ready to transmit the programmable device data to the programmable device.

Gabai discloses a station 100 Fig. 1A, 2A-C transmits a notification signal (message) to the programmable device 122 to indicate the station 100 is ready to communicate (transmit programmable device data) by sending a "awake" signal to

Art Unit: 2611

the remote device (Col. 19, "GOTO\_AWAKE\_MODE" function) which cause the remote device to send back an "ack" signal (Col. 21, OK\_ACK function) for indicating to the station 105 that the programmable device 122 is within range and ready to receive transmitted signal from the station 100 in which the function of the animated object 160 are now performed through the programmable device 122 under the computer 100 (Col. 9, lines 24-Col. 10, lines 6). It is noted that Gabai also discloses that the programmable device 122 could produce a message sound in response to a signal received from the computer 100 (Col. 10, lines 3-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Aldava with Gabai so to a computer controlled toy system that could generate control instructions for the toy including at least one command including sound/voice messaging (Col. 4, lines 41-52 and Col. 5, lines 15-30)

Claim 8, Herz and Gabai further discloses, wherein each of the receiving station (TV set) and the programmable device (Herz 's RC; Gabai 's el. 122) includes a transceiver (Herz el. 213,226; Gabai; Col. 8, lines 63-Col. 9, lines 8) for bi-directional communication between the receiving station and the programmable device, and wherein the programmable device is configured as an input device (RC) to the receiving station (see Herz Fig. 2; Col. 5, lines 34-53 and Gabai 2B) and is configured to transmit a signal to the receiving station to indicate the location from which the receiving station may retrieve programmable device data (Herz Col. 9, lines 40-44; Gabai; Col. 12, lines 64-66).

Claim 9, Herz further discloses, wherein the transceivers comprise wireless transceivers (Infrared communicator 213, 226 of Fig. 2; Col. 3, lines 19-20 and lines 29-30).

Claim 10, Herz further discloses, wherein the receiving station (TV set) is configured to transmit instructional cues to the programmable device (RC) and wherein the programmable device is configured to provide the instructional cues (i.e., text or graphic overlaid ... as defined by Applicant description page 17, line 16) to a user (Col. 8, lines 44-Col. 9, lines 10 and Col. 11, lines 15 – Col. 13, lines 20; Fig. 10B-12B).

Regarding claim 11, Herz and Gabai do not clearly disclose, "the instructional cues comprise streaming speech data, wherein the programmable device is configured to transmit the streaming speech data to the speaker upon receipt of the streaming speech data from the receiving station."

Aldava further discloses a programmable toy 300 receives the streaming speech data from the receiving station 200 and the programmable toy is configured to transmit the streaming speech data to the speaker (Col. 3, lines 63-Col.4, lines 5, lines 13-18, lines 44-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz with Aldava to have instructional cues comprise streaming speech data, wherein the programmable



device (RC) is configured to transmit the streaming speech data to the speaker upon receipt of the streaming speech data from the TV set, as taught by Aldava, so the programmable device (RC) could produce real-time speaking sound as the TV programming displayed and heard from the television (Col. 15, lines 36-42).

2. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of Heimbürger (DES 386,184).

Claim 2, Both Aldava (Fig. 1, el. 300) and Gabai (Fig. 2B, el. 122) both disclose the programmable device is a smart toy; Herz does not clearly disclose the programmable device (RC) is a toy.

Heimbürger discloses a remote control is built as a toy. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz's programmable device (RC) in view of Haldava and Gabai to a Toy/ smart toy, as taught by Heimbürger, so to entice the users to have fun and amusement while using the remote control.

Claim 3, "wherein the one of the receiving station and the smart toy is configured to select the portion of the program data according to a set of stored user preferences and to discard the remainder of the program data, and wherein the one of the receiving station and the smart toy is configured to construct the set stored user preferences" reads on Herz disclosure in which the soft GUI of the present

Art Unit: 2611

invention provides a personalized RC option for different users... User-specific settings such as preferred channels... etc. can be programmed and stored in the RC memory... Col. 10, lines 40-59, in doing so Herz' s one of the receiving station and the smart toy is inherently configured to select and store only the portion of the program data according to the user reference and to discard the remainder of the program data.

3. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of Klosterman (US 6,078,348).

Regarding claims 5-7, as analyzed with respect to claim 1, Herz in view of Aldava and Gabai does not clearly disclose, "the broadcast station is configured to cyclically transmit a carousel of modules containing the program data".

Klosterman discloses the broadcast station is configured to cyclically transmit a carousel of modules containing the program data (Col. 8, lines 60-65+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Klosterman to configure a broadcasting station to transmit carousel of modules in a cyclic manner, as taught by Klosterman, so to provide the interactive television system and moreover to take the advantages of software applications written in modular fashion by conserving the limited amount of memory in the set-top box and thus reducing the time required to download

applications from a broadcast station to a set-top box (Col. 8, lines 60-Col. 9, lines 1).

4. Claim 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of Kung (US 5182553).

Regarding claim 24, Herz in view of Aldava and Gabai does not clearly disclose wherein the instructional cues instruct the user in how to reprogram the programmable device; However, Herz discloses the programmable device is configured to provide the instructional cues (i.e., text or graphic overlaid ... as defined by Applicant description page 17, line 16) to a user (Col. 8, lines 44-Col. 9, lines 10 and Col. 11, lines 15 – Col. 13, lines 20; Fig. 10B-12B).

Kung discloses a communication receiver receives instructional cues (messages) instruct the user how to program/reprogram the communication receiver (abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Aldava and Gabai with instructional cues instruct the user in how to reprogram the programmable device, as taught by Kung, so to alert the user that changes in the operation of the communication receiver may be required, especially if changes indicated are reprogrammed (Col. 2, lines 18-30).

5. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of Wharton et al. (US 5831664).

Claim 32, Herz in view of Aldava and Gabai discloses wherein each of the receiving station (i.e. set top box) and the programmable device (Herz 's RC) includes a transceiver (Herz el. 213,226 and 214,228) for bi-directional communication between the receiving station and the programmable toy (Fig. 2) and wherein the programmable device is configured as an input device to the receiving station (Herz in view of Heimbürger RC).

Herz in view of Aldava and Gabai does not clearly disclose that the programmable device is configured to transmit to the receiving station a piece of software.

Wharton discloses a programmable device 12 (Fig. 1) is configured to transmit to the receiving station a piece of software ("message"; Fig. 6; Col. 6, lines 19-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Aldava, Gabai with Wharton so to allows multiple programmable device to interact with an interactive receiving device (Col. 2, lines 8-10).

Claim 33, Wharton further discloses wherein the piece of software ("message") allows the receiver 16 to communicate with an entity selected from a server 18 that provides programmable device data (see Fig. 6-7).

6. Claims 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of Kung (US 5182553).

Regarding claim 24, Herz in view of Aldava and Gabai do not clearly disclose wherein the instructional cues instruct the user in how to reprogram the programmable device; However, Herz discloses the programmable device is configured to provide the instructional cues (i.e., text or graphic overlaid ... as defined by Applicant description page 17, line 16) to a user (Col. 8, lines 44-Col. 9, lines 10 and Col. 11, lines 15 – Col. 13, lines 20; Fig. 10B-12B).

Kung discloses a communication receiver receives instructional cues (messages) instruct the user how to program/reprogram the communication receiver (abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Aldava and Gabai with instructional cues instruct the user in how to reprogram the programmable device, as taught by Kung, so to alert the user that changes in the operation of the communication receiver may be required, especially if changes indicated are reprogrammed (Col. 2, lines 18-30).

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of in view of Rosenthal et al. (US 5223815).

Regarding claim 25, Herz further discloses wherein the receiving station (i.e., set top box) is configured to transmit the notification signal only if IR signal is configured for communicating between the RC and the TV set and when the RC is not within the communication range with the TV set, the RC and the TV set will not communicate until they are both within range (Col. 14, lines 56-65). Herz in view of Aldava and Gabai does not clearly disclose that the notification signal is transmitted with a 1<sup>st</sup> range and transmit the programmable device data with a 2<sup>nd</sup> range, wherein the 1<sup>st</sup> range corresponds to a distance the notification signal may be effectively transmitted, the 2<sup>nd</sup> range corresponds to a distance the programmable device data may be effectively transmitted, and wherein the 1<sup>st</sup> range is greater than the 2<sup>nd</sup> range. However, Herz suggests that Herz system could be programmed to transmit the notification signal is transmitted with a 1<sup>st</sup> range (i.e. RF signal) and transmit the programmable device data with a 2<sup>nd</sup> range (i.e. IR signal) (Col. 6, lines 63-Col. 8, lines 25).

Rosenthal discloses a transmitter unit transmits a signal 14 to a receiver unit 13 wherein the 1<sup>st</sup> range corresponds to a distance the notification signal may be effectively transmitted (threshold condition for communication between two devices is reached), the 2<sup>nd</sup> range corresponds to a distance the transmitting signal may be effectively transmitted (less than the threshold condition for communication), and wherein the 1<sup>st</sup> range is greater than the 2<sup>nd</sup> range (Col. 3, lines 44-55 and Col. 4, lines 18-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Aldava and Gabai with Rosenthal to have a mechanism to notify the user when the receiver device and the transmitter device are not within the communication range, as taught by Rosenthal, so to always keep both devices, transmitter and receiver, within the range of communication.

8. Claims 12, 15-22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,078,348) in view of Herz (US 6407779), and further in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273).

Regarding claim 12, Klosterman discloses a method comprising:

Broadcasting data to a plurality of receiving stations (TV set) (Fig. 1A; Col. 2, lines 25-65+);

Receiving the data modules at one of the receiving stations (Col. 8, lines 47-65+).

Klosterman does not clearly disclose, "Selecting a portion of the data";  
"transmitting a notification signal to a programmable device to indicate that the receiving station is ready to transmit programmable device data configured for use in programming the programmable device to the programmable device, in response to detecting the data includes the programmable device data; not transmitting the

notification signal to the programmable device, in response to detecting the data does not include the programmable device data; wherein in response to receiving the notification signal the programmable device is configured to emit a user-sensible signal to indicate that the receiver is ready to transmit the programmable device data to the programmable device"; "Transmitting the selected portion of the data to a programmable device; and programming the programmable device according to the selected portion of the data".

Herz discloses (Fig. 1) the TV set selects a portion of the broadcast data received (selects EPG data among data received from broadcast data), Herz further teaches a test enable signal and IR request are sent from the TV to the remote control. The purpose of the test enable signal is to inform the remote control of incoming IR request (Herz ; Col. 7, lines 27-49 and Col. 14, lines 56-65) that reads on "transmitting a notification signal to the programmable device to indicate that the receiving station is ready to transmit programmable device data to the programmable device". Herz further discloses transmitting the selected portion of the data (transmits EPG) to a programmable device (RC) (Col. 8, lines 41-49); and programming the programmable device (RC) according to the selected portion of the data (configuring the RC to display the received EPG; Col. 9, lines 3-27 and Col. 10, lines 40-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Klosterman by transmitting a portion of the broadcast data received at the TV set to a programmable device, as taught by Herz, so to provide a programmable device (RC) that is capable of storing and



updating TV program guide information in the programmable device memory (Col. 1, lines 54-58).

Klosterman in view of Herz does not disclose "programmable device data configured for use in programming the programmable device" and "in response to detecting the program data includes the programmable device data; not transmitting the notification signal to the programmable device, in response to detecting the program data does not include programmable device data; Wherein in response to receiving the notification signal, the programmable device is configured to emit a user-sensible signal to indicate that the receiver (receiving station) is ready to transmit the programmable device data to the programmable device."

Aldava discloses programmable device data (kinetic device audio and kinetic signals) configured for use in programming the programmable device 300 (Fig. 1) and in response to detecting the program data (TV broadcast signal) includes the programmable device data (kinetic device audio and kinetic signals) the receiving station 200 transmits programmable device data to the programmable device, and does not transmit programmable device data to the programmable device in response to detecting the program data does not comprise programmable device data (Col. 4, lines 13-23 and Col. 15, lines 12-42). Aldava further discloses wherein in response to receiving the kinetic device audio and kinetic signals, the programmable device 300 is configured to emit a user-sensible signal (Col. 5, lines 29-38). Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify Klosterman in view of Herz with Aldava so to cause the remote receiving system to be able to emit audible sounds and kinetic movements in a synchronization manner with audiovisual programming (Col. 1, lines 10-15).

Klosterman in view of Herz and Aldava does not disclose the programmable device wherein in response to receiving the notification signal, the programmable device is configured to emit a user-sensible signal to indicate that the receiver (i.e., set top box) is ready to transmit the programmable device data to the programmable device.

Gabai discloses a station 100 Fig. 1A, 2A-C transmits a notification signal (message) to the programmable device 122 to indicate the station 100 is ready to communicate (transmit programmable device data) by sending a "awake" signal to the remote device (Col. 19, "GOTO\_AWAKE\_MODE" function) which cause the remote device to send back an "ack" signal (Col. 21, OK\_ACK function) for indicating to the station 105 that the programmable device 122 is within range and ready to receive transmitted signal from the station 100 in which the function of the animated object 160 are now performed through the programmable device 122 under the computer 100 (Col. 9, lines 24-Col. 10, lines 6). It is noted that Gabai also discloses that the programmable device 122 could produce a message sound in response to a signal received from the computer 100 (Col. 10, lines 3-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify Klosterman in view of Herz and Aldava with Gabai so to a computer controlled toy system that could generate control instructions for the toy including at least one command including sound/voice messaging (Col. 4, lines 41-52 and Col. 5, lines 15-30).

Regarding claim 15, Herz further discloses, "comprising filtering the received data according to a set of user preferences to select the selected portion of the data" (Col. 10, lines 40-56).

Regarding claim 16, Herz further discloses, "comprising building the set of user preferences" (Col. 10, lines 42-47).

Regarding claim 17, Herz further discloses, "wherein transmitting the selected portion of the data to the programmable device is performed using a wireless communication link between the receiving station and the programmable device" (Col. 8, lines 41-50).

Claim 18, Herz and Gabai further discloses each of the receiving station (TV set) and the programmable device (Herz 's RC; Gabai 's el. 122) includes the wireless communications link (Herz el. 213,226; Gabai; Col. 8, lines 63-Col. 9, lines 8) for bi-directional communication between the receiving station and the programmable device, and wherein the programmable device is configured as an input device (RC) to the receiving station (see Herz Fig. 2; Col. 5, lines 34-53 and

Gabai 2B) and is configured to transmit a signal to the receiving station to indicate the location from which the receiving station may retrieve programmable device data (Herz Col. 9, lines 40-44; Gabai; Col. 12, lines 64-66).

Regarding claim 19, Klosterman discloses "wherein broadcasting the data comprises cyclically transmitting a carousel of data modules (Col. 8, lines 60-65+).

Regarding claim 20, Klosterman discloses, "wherein the broadcasting the carousel of data modules comprises transmitting the data modules via the broadcast channel of an interactive television network" (see Abstract; Col. 8, lines 66-Col. 9, lines 1).

Regarding claim 21, Herz further discloses "automatically initiating transmission of the selected portion of the data from the receiving station to the programmable device when the programmable device is within range to establish the wireless communications link to the receiving station" (Col. 14, lines 60-Col. 15, lines 6).

Regarding claim 22, Herz further discloses, "transmitting one or more cues to the programmable device" (i.e., text or graphic overlaid ... as defined by Applicant description page 17, line 16; see Herz' s Col. 8, lines 44-Col. 9, lines 10 and Col. 11, lines 15 – Col. 13, lines 20; Fig. 10B-12B).

Regarding claim 26, Herz further discloses, wherein the selected portion of the data comprise instructional cues, and wherein the method further comprises providing the instructional cues (i.e., text or graphic overlaid ... as defined by Applicant description page 17, line 16) to a user (Col. 8, lines 44-Col. 9, lines 10 and Col. 11, lines 15 – Col. 13, lines 20; Fig. 10B-12B).

9. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,078,348) in view of Herz (US 6407779), and further in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273) and further in view of Wharton et al. (US 5831664).

Claim 34, Klosterman in view of Herz, Aldava, and Gabai discloses wherein wherein the wireless communication link comprises a bi-directional link (Fig. 2) and wherein the programmable device is configured as an input device to the receiving station (Herz RC).

Klosterman in view of Herz, Aldava, and Gabai does not clearly disclose that the programmable device is configured to transmit to the receiving station a piece of software.

Wharton discloses a programmable device 12 (Fig. 1) is configured to transmit to the receiving station a piece of software ("message"; Fig. 6; Col. 6, lines 19-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Klosterman in view of Herz, Aldava, and

Gabai with Wharton so to allows multiple programmable device to interact with an interactive receiving device (Col. 2, lines 8-10).

Claim 35, Wharton further discloses wherein the piece of software ("message") allows the receiver 16 to communicate with an entity selected from a server 18 that provides programmable device data (see Fig. 6-7).

10. Claim 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,078,348) in view of Herz (US 6407779), and further in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of Rosenthal et al. (US 5223815).

Regarding claim 28, Klosterman in view of Herz, Aldava and Gabai does not clearly disclose the notification signal is transmitted with a 1<sup>st</sup> range and the program data with the 2<sup>nd</sup> range wherein the 1<sup>st</sup> range corresponds to a distance the notification signal may be effectively transmitted, the 2<sup>nd</sup> range corresponds to a distance the transmitting signal may be effectively transmitted, and wherein the 1<sup>st</sup> range is greater than the 2<sup>nd</sup> range.

Rosenthal discloses wherein the 1<sup>st</sup> range corresponds to a distance the notification signal may be effectively transmitted (threshold condition for communication between two devices is reached), the 2<sup>nd</sup> range corresponds to a distance the transmitting signal may be effectively transmitted (less than the threshold condition for communication), and wherein the 1<sup>st</sup> range is greater than the 2<sup>nd</sup> range (Col. 3, lines 44-55 and Col. 4, lines 18-30). Therefore, it would have been

Art Unit: 2611

obvious to one of ordinary skill in the art at the time the invention was made to modify Klosterman in view of Herz, Aldava and Gabai with Rosenthal to have a mechanism to notify the user when the receiver device and the transmitter device are not within the communication range, as taught by Rosenthal, so to always keep both devices, transmitter and receiver, within the range of communication.

Regarding claim 29, see analysis of claims 12 and 28.

11. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,078,348) in view of Herz (US 6407779), and further in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of Heimburger (DES 386,184).

Claim 13, Aldava (Fig. 1, el. 300) and Gabai (Fig. 2B, el. 122) both disclose the programmable device is a smart toy; Klosterman in view of Herz does not clearly disclose the programmable device (RC) is a toy.

Heimburger discloses a remote control is built as a toy. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Klosterman in view of Herz' s programmable device (RC) and further view of Haldava and Gabai to a Toy/smart toy, as taught by Heimburger, so to entice the users to have fun and amusement while using the remote control

Regarding claim 14, Herz further discloses wherein the selecting comprises the user manually selecting the selected portion of the data using the programmable device as an input device (RC; Col. 9, lines 3-47).

12. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,078,348) in view of Herz (US 6407779), and further in view of Aldava (US 5191615), and further in view of Gabai et al. (US 6022273), and further in view of further in view of Kung (US 5182553).

Regarding claim 27, Klosterman, Herz, Aldava and Gabai do not clearly discloses wherein the instructional cues instruct the user in how to reprogram the programmable device; However, Herz discloses the programmable device is configured to provide the instructional cues (i.e., text or graphic overlaid ... as defined by Applicant description page 17, line 16) to a user (Col. 8, lines 44-Col. 9, lines 10 and Col. 11, lines 15 – Col. 13, lines 20; Fig. 10B-12B).

Kung discloses a communication receiver receives instructional cues (messages) instruct the user how to program/reprogram the communication receiver (abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Klosterman in view of Herz, Aldava and Gabai with instructional cues instruct the user in how to reprogram the programmable device, as taught by Kung, so to alert the user that changes in the operation of the communication receiver may be required, especially if changes indicated are reprogrammed (Col. 2, lines 18-30).



13. Claims 23 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Heimbürger (DES 386184) and further in view of Rosenthal et al. (US 5223815).

Regarding claim 23, Herz discloses a programmable device (RC; Fig. 2, element 210) comprising:

A memory 216 configured to store program data (EPG; Col. 3, lines 52-55).

A control unit 212 configured to perform one or more actions based on the program data (i.e. EPG) stored in the memory 216 (Col. 3, lines 55-60); and

A receiver 213 configured to receive a notification signal from a transmitter (TV set) indicating that the transmitter (TV set) is ready to transmit/convey program data to the receiver 213 (Herz; Col. 7, lines 27-49 and Col. 14, lines 56-65).

Wherein the programmable device (RC) is configured to select a portion of the program data (EPG) and store the portion of the program data in the memory 216 and to discard the remainder of the program data (The RC is configured to select only a portion of the received EPG data, i.e. one day of the scheduled TV programming, based on the availability of RAM on the RC, see Col. 8, lines 57-60 or based on the user preferred setting stored in the RC, see Col. 10, lines 40-47). Herz further discloses transmitting the selected portion of the data (transmits EPG) to a programmable device (RC) (Col. 8, lines 41-49); and programming the

programmable device (RC) according to the selected portion of the data (configuring the RC to display the received EPG; Col. 9, lines 3-27 and Col. 10, lines 40-56).

Herz does not clearly disclose the programmable device (RC) is a toy and the program data including programmable toy data.

Heimbürger discloses a remote control is built as a toy. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz' s programmable device (RC) to a Toy in which Herz' s selected portion of the data of the program data is a programmable toy data, as taught by Heimbürger, so to entice the users to have fun and amusement while using the remote control.

Herz in view of Heimbürger does not disclose wherein the receiver (RC) is configured to emit a user-sensible signal to indicate that the programmable device/receiver (RC) should be brought into communication with the "receiving station"/TV set/transmitter. However, Herz discloses if only IR signal is configured for communicating between the RC and the TV set and when the RC is not within the communication range with the TV set, the RC and the TV set will not communicate until they are both within range (Col. 14, lines 56-65).

Rosenthal discloses a transmitter unit transmits a signal 14 to a receiver unit 13. If the strength of the receiving signal, at the receiver, is below the predetermined reference signal voltage (outside the communication range), then the receiver generates a speech (alarm) from the speech synthesizer 18 to indicate that receiver is out-of range; see col. 4, lines 44-17.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Heimbürger with Rosenthal to have a mechanism to notify the user when the receiver device and the transmitter device are not within the communication range, as taught by Rosenthal, so to always keep both devices, transmitter and receiver, within the range of communication.

Claim 36, Herz in view of Heimbürger and Rosenthal further discloses each of the receiving station (TV set) and the programmable device (toy) (Herz 's RC) includes a transceiver (Herz el. 213,226) for bi-directional communication between the receiving station and the programmable device (toy), and wherein the programmable device (toy) is configured as an input device (RC) to the receiving station (see Herz Fig. 2; Col. 5, lines 34-53 and Gabai 2B) and is configured to transmit a signal to the receiving station to indicate the location from which the receiving station may retrieve programmable device (toy) data (Herz Col. 9, lines 40-44).

14. Claims 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US 6407779) in view of Heimbürger (DES 386184) and further in view of Rosenthal et al. (US 5223815), and further in view of Wharton et al. (US 5831664).

Claim 30\_23, Herz in view of Heimbürger discloses wherein each of the receiving station (i.e. set top box) and the programmable toy (Herz 's RC) includes a transceiver (Herz el. 213,226 and 214,228) for bi-directional communication between

the receiving station and the programmable toy (Fig. 2) and wherein the programmable toy is configured as an input device to the receiving station (Herz in view of Heimburger RC).

Herz in view of Heimburger and Rosenthal does not clearly disclose that the programmable toy is configured to transmit to the receiving station a piece of software.

Wharton discloses a programmable device 12 (Fig. 1) is configured to transmit to the receiving station a piece of software ("message"; Fig. 6; Col. 6, lines 19-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz in view of Heimburger and Rosenthal with Wharton so to allows multiple programmable device to interact with an interactive receiving device (Col. 2, lines 8-10).

Claim 31, Wharton further discloses wherein the piece of software ("message") allows the receiver 16 to communicate with an entity selected from a server 18 that provides programmable device data (see Fig. 6-7).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is 703-308-7372. The examiner can normally be reached on M-F.

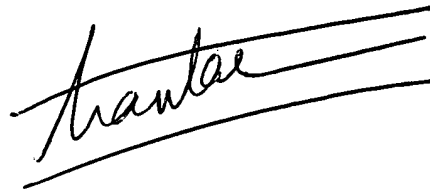
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/587,115  
Art Unit: 2611

Page 29

HT:ht  
07/23/2004

A handwritten signature, likely "HAITRAN", is written in cursive and underlined with three horizontal lines.

HAITRAN  
PATENT EXAMINER